

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MARYLAND**

**American Humanist Association,
Steven Lowe, Fred Edwards,
and Bishop McNeill**

Case No. cv-14-550

Plaintiffs,

v.

**Maryland-National Capital Park and Planning
Commission,**

Defendant.

COMPLAINT

Seeking to protect their civil liberties and constitutional rights, the plaintiffs identified above (collectively, the “Plaintiffs”), as their complaint against the Maryland-National Capital Park and Planning Commission (the “Defendant”), allege as follows:

NATURE OF THE CLAIMS

1. This action challenges the constitutionality of the Defendant’s ownership, maintenance and prominent display on public property of a massive Christian cross (the “Bladensburg Cross”) as a violation of the Establishment Clause of the First Amendment of the United States Constitution, as applied to Maryland by the Fourteenth Amendment.

2. The Plaintiffs seek injunctive and declaratory relief and nominal damages under 42 U.S.C. §1983 against the Defendant to redress this Establishment Clause violation, together with recovery of attorney’s fees and costs under 42 U.S.C. §1988(b).

JURISDICTION AND VENUE

3. This case arises under the First Amendment to the Constitution of the United States and presents a federal question within this Court's jurisdiction pursuant to 28 U.S.C. §§1331 and 1343(a)(3). The Court has the authority to issue a declaratory judgment under 28 U.S.C. §2201 and to provide injunctive relief and award nominal damages under 28 U.S.C. §1343 and Fed. R. Civ. P. 65.

4. Venue is proper within this judicial district pursuant to 28 U.S.C. §1391(b)(2) because the events giving rise to the Plaintiffs' claims occurred herein.

PARTIES

5. The American Humanist Association ("AHA") is a nonprofit 501(c)(3) organization incorporated in Illinois with a principal place of business at 1777 T Street N.W., Washington, D.C. AHA is a membership organization, with over 170 chapters and affiliates nationwide, including several in Maryland, and over 24,800 members and supporters, which include residents of Prince George's County who frequently encounter the Bladensburg Cross. AHA advocates progressive values and equality for humanists, atheists, and freethinkers. AHA's legal center is dedicated to advancing and preserving the constitutional mandate of separation of church and state, the constitutional protections found in the Bill of Rights, and, in particular, the First Amendment to the United States Constitution. AHA brings this action to assert the First Amendment rights of its members.

6. Steven Lowe ("Mr. Lowe") is a resident of the District of Columbia and is a member of the AHA. He has lived in Washington, D.C. since 1982. Mr. Lowe first encountered the Bladensburg Cross in 1982. Mr. Lowe lives approximately four miles away from the Bladensburg Cross and passes it on average, about once a month, usually in his car. He typically passes by the cross when he does errands, visits commercial establishments in the area of the Bladensburg Cross or beyond it, or when he

travels to visit friends. Occasionally, Mr. Lowe encounters the cross on his bike ride from his house to the nearby Bladensburg Waterfront Park.

7. Due to the size of the cross, Mr. Lowe believes it cannot be ignored or overlooked. Its location, in the middle of a major road intersection of the Maryland State road system, clearly makes it the property of and a statement by the State government. He believes that the Bladensburg Cross associates a Christian religious symbol with the State and gives the impression that the State supports and approves of Christianity, as opposed to other religions, and that the state may even prefer Christians and Christianity over other religions. As a non-Christian, Mr. Lowe is personally offended and feels excluded by this governmental message. He opposes this appearance of governmental favoritism for religion and for a particular religion, Christianity. Because it is a memorial for fallen soldiers who died as patriots not missionaries or crusaders, Mr. Lowe believes a more fitting symbol of their sacrifice would be a symbol of the Nation for which they fought and died, not a particular religion.

8. Mr. Lowe was shocked when he first saw the cross and it upsets him whenever he passes it. Mr. Lowe is a graduate of the University of Virginia and he agrees strongly with its founder, Thomas Jefferson's, principle of separation of church and state; that government should be neutral towards and not exhibit any favoritism or involvement with religions. Mr. Lowe does not wish to encounter the Bladensburg Cross in the future.

9. Fred Edwards ("Mr. Edwards") is a resident of Prince George's County, Maryland, and a member of AHA. Mr. Edwards has had unwelcome contact with the Bladensburg Cross on several occasions and objects to the governmental promotion of and affiliation with religion it embodies. Mr. Edwards does not wish to encounter the Bladensburg Cross in the future.

10. Bishop McNeill (“Mr. McNeill”) is a resident of Beltsville, Maryland and has lived there for at least eight months. He first encountered the Bladensburg Cross in July 2013. Mr. McNeill has had unwelcome contact with the cross at least four times. Each time he encountered it, he was traveling to local stores and businesses in the surrounding area. Mr. McNeill sees the Bladensburg Cross as a religious symbol and objects to the governmental promotion of and affiliation with religion it embodies. Mr. McNeill does not wish to encounter the Bladensburg Cross in the future.

FACTS

11. The Defendant is an independent “body politic and corporate and is an agency of the State” of Maryland pursuant to MD Code, Land Use, § 15-101.

12. The Bladensburg Cross stands on a small island of property (the “Property”), approximately a third of an acre in size.

13. The Property serves as a median between roadways in Bladensburg, Maryland (the “Town”).

14. The Bladensburg Cross is also referred to as the “Peace Cross.”

15. The Bladensburg Cross stands 40 feet high, with arms extending 5 feet from the center. It rests on a large rectangular platform.

16. Affixed to this platform is a small plaque (the “Plaque”) listing the names of county residents who died in World War I.

17. An image of the Bladensburg Cross and its environs is included as Exhibit A.

18. There are no sidewalks on the Property or any crosswalks connecting the Property to the other side of the roads which surround it.

19. There is no legal way for a pedestrian to cross the street to approach the Property. Cars cannot legally stop and park at the curbs on the edge of the property.

20. The Plaque has not been legible from a passing car or by a pedestrian standing across the road.

21. Even if approached on foot, the plaque has been obscured by bushes, as shown in the image included as Exhibit B.

22. In the center of the cross is a an emblem of a gold star with the letters “U.S.” in its center, as shown in the image included as Exhibit C.

23. This star emblem appears to expressly affiliate the United States government with the Bladensburg Cross.

24. The Bladensburg Cross was erected on land owned at the time by the Town. The Town acquired ownership of the Property by force of Chapter 428, 1870 Laws of Maryland, which transferred certain land to the Commissioners of Bladensburg.

25. The history of the Bladensburg Cross begins in 1918. A group called the Prince George’s County Memorial Committee began in that year to raise funds to construct a cross on the Property.

26. Contributors signed the following pledge: “We, the citizens of Maryland, trusting in God, the Supreme Ruler of the universe, pledge faith in our brothers who gave their all in the world war to make the world safe for democracy. Their mortal bodies have turned to dust, but their spirit lives to guide us through life in the way of godliness, justice and liberty. With our motto, ‘One God, One Country and one Flag,’ we contribute to this memorial cross commemorating the memory of those who have not died in vain.” See Exhibit D for a copy of this pledge.

27. The Bladensburg Cross was formally dedicated on July 12, 1925.

28. As part of the dedication ceremonies, Representative Stephen W. Gambrill of the Fifth Maryland District delivered the dedication address, in which he stated: “You men of Prince Georges county fought for the sacred right of all to live in peace and security and by the token of this cross, symbolic of Calvary, let us keep fresh the memory of our boys who died for a righteous cause.”¹

29. The reference to “Calvary” is a Christian one. The Bible names it as the place of the crucifixion of Jesus Christ, and is used by Christian to evoke the sectarian significance of this event in their religion. The crucifixion is central to Christian theology.

30. The dedication ceremony also included prayers.

31. An invocation was given by Rev. A.J. Carey, pastor of St. Jerome’s Catholic Church.

32. Rev. B.P. Robertson, pastor of the First Baptist church pronounced a benediction.²

33. Prince George’s County held a memorial service in 1929 at the Bladensburg Cross. As part of the ceremony, prayers were offered by the Rev. Morris W. Derr, rector of St. Luke’s Protestant Episcopal Parish.³

34. An article in the Washington Post, dated July 25, 1931 reported the following: “Head of Church Army Will Be Preacher Here. The special preacher at the Peace Cross services for the first three Sundays in August will be Capt. Frank B. Mountford, head of the Church Army in the United States and one of the outstanding lay evangelists in this country.”

35. Although the State of Maryland had long asserted that it owned the Property, a dispute arose in the early 1930s.

¹ Legion Dedicates Bladensburg War Memorial Cross, *The Washington Post*; July 13, 1925.

² *Id.*

³ War Dead Honored by Prince Georges, *The Washington Post* (1923-1954); May 31, 1929.

36. In 1935, the General Assembly of Maryland authorized the State Roads Commission to “investigate the ownership and possessory rights of the property” and declared that “if there is outstanding ownership or right of possession in any one to any part of said tract, to authorize and direct said Commission to acquire the same and to direct the Board of Public Works to transfer a sufficient sum to said Commission for payment of same.”⁴

37. In 1956, any doubt as to ownership of the Property was settled by a Prince George’s County Circuit Court ruling that title was vested in the State of Maryland.⁵

38. The State Roads Commission subsequently deeded the Bladensburg Cross and the Property to the Defendant in 1960, after which the Defendant carried out restoration work on the monument.⁶

39. Another article in the Washington Post, dated May 29, 1931, provided the details for an elaborate Memorial Day celebration to be held at Marlboro and at the Peace Cross.

40. The celebration at the Peace Cross would include religious “services” by the American Legion. A Rev. Clyde Brown was scheduled to “deliver the invocation.”

41. Services held by the American Legion included a religious component, as is required by their own constitution and the American Legion “Manual of Ceremonies,” which was adopted by the Legion in 1921. This manual prescribes the prayers that shall be delivered as part of a Memorial Day Service.⁷

⁴ 1935 Md. Laws Ch. 432.

⁵ Land Records, Prince George’s County, Maryland, liber 2821, folio 1.

⁶ Land Records, Prince George’s County, Maryland, liber 2511, folio 99.

⁷ http://www.legion.org/sites/legion.org/files/legion/publications/officers_guide.pdf

42. On May 30, 1940, the Washington Post reported: “Peace Cross To Be Scene Of Rites Today.” The article stated that on Memorial Day “services would be held at the cross,” including by the American Legion.

43. On May 30, 1949, the Washington Post reported that “memorial services” would be held at the Bladensburg Cross.

44. The Defendant is now the owner of the Bladensburg Cross and the Property on which it stands.

45. In 1965, the Defendant created a lighting system for the Bladensburg Cross and illuminated it on April 1, 1965 during a dedication ceremony.⁸

46. The Bladensburg Cross is now lit every night.

47. Three monuments were added later to a separate area in the general vicinity of the Bladensburg Cross.

48. None of these new monuments resemble the size and prominence of the cross.

49. Each new monument is situated more than 200 feet from the Bladensburg Cross. (See Exhibit E).

50. These later-added monuments include a 9/11 Memorial, dedicated in 2006,⁹ a Korea-Vietnam Memorial, unveiled in 1983, and a World War II Memorial, dedicated in approximately 1960.

51. The 9/11 monument stands less than a foot-tall and its text is facing away from the road. (See Exhibit F).

52. The Korea-Vietnam monument stands about 4 feet tall. (See Exhibit G).

⁸ Lights for Peace Cross, *Washington Post, Times Herald* (1959-1973), April 2, 1965.

⁹ <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/20/AR2006092000964.html>

53. The Second World War Memorial is about 10 feet tall. Its text is illegible from the vantage point of a driver passing by. (See Exhibit H).

CAUSES OF ACTION

54. All preceding allegations are incorporated herein by reference.

55. The Defendant's ownership, maintenance and prominent display on public property of the Bladensburg Cross amounts to the endorsement and advancement of religion (and, specifically, an endorsement of and affiliation with Christianity) in violation of the Establishment Clause of the First Amendment to the United States Constitution.

56. The Defendant's ownership, maintenance and prominent display on public property of the Bladensburg Cross lacks a secular purpose in violation of the Establishment Clause of the First Amendment to the United States Constitution.

57. The Defendant's ownership, maintenance and prominent display on public property of the Bladensburg Cross fosters excessive governmental entanglement with religion in violation of the Establishment Clause of the First Amendment to the United States Constitution.

58. The Defendant acted under color of state law in violating the First Amendment as described herein in violation of 42 U.S.C. §1983.

RELIEF SOUGHT

The Plaintiffs demand that this court grant the following relief:

i. A declaratory judgment that the Defendant's ownership, maintenance and prominent display on public property of the Bladensburg Cross violates the Establishment Clause of the First Amendment of the United States Constitution and is a violation of the Plaintiffs' constitutional rights under 42 U.S.C. §1983;

- ii. An injunction enjoining the Defendant (and its successors) from displaying the Bladensburg Cross on public property or otherwise in violation of the Establishment Clause;
- iii. A judgment in the Plaintiffs' favor for nominal damages;
- iv. An award to the Plaintiffs of their reasonable costs, disbursements and attorneys' fees as allowed by law from the Defendant pursuant to 42 U.S.C. §1988; and
- v. An award of such other and further relief as the Court shall deem just.

Dated this 26th day of February, 2014.

/s/

Daniel P. Doty (Fed. Bar No. 28247)
Law Office of Daniel P. Doty, P.A.
5500 Harford Road, Suite 202
Baltimore, Maryland 21214
[410.615.0902](tel:410.615.0902)
ddoty@dotylawoffice.com

/s/

Monica L. Miller
American Humanist Association
1777 T Street, N.W., Washington, D.C. 20009
phone (202) 238-9088 / *facsimile* (202) 238-9003
mmiller@americanhumanist.org
CA Bar: 288343 / DC Bar: 101625
(*pro hac vice* to be filed)

/s/

David A. Niose
Law Offices of David Niose
348 Lunenburg Street, Suite 202, Fitchburg, MA 01420
[978-343-0800](tel:978-343-0800)
dniose@nioselaw.com
Mass Bar: 556484
(*pro hac vice* to be filed)

Attorneys for the Plaintiffs

Exhibit A



Exhibit B



Exhibit C



Exhibit D

CONTRIBUTION PLEDGE

WE, THE CITIZENS OF MARYLAND, TRUSTING IN GOD, THE SUPREME RULER OF THE UNIVERSE, PLEDGE FAITH IN OUR BROTHERS WHO GAVE THEIR ALL IN THE WORLD WAR TO MAKE THE WORLD SAFE FOR DEMOCRACY. THEIR MORTAL BODIES HAVE TURNED TO DUST, BUT THEIR SPIRIT LIVES TO GUIDE US THROUGH LIFE IN THE WAY OF GODLINESS, JUSTICE AND LIBERTY.

WITH OUR MOTTO, "ONE GOD, ONE COUNTRY AND ONE FLAG," WE CONTRIBUTE TO THIS MEMORIAL CROSS COMMEMORATING THE MEMORY OF THOSE WHO HAVE NOT DIED IN VAIN.

Louis H. Miller	1.00 ⁺	Leland V. Mayhew	50	28.75
H. J. Miller	1.00 ⁺	Chas. F. Flory	1.00	
Mrs. D. Pleitner	1.00 ⁺	L. Pleitner	1.00	
R. D. Magruder	1.00	W. C. Rohrbach	1.00	
George S. Creek	.50 ⁺	Cash	1.00	

Exhibit E



Google Maps image taken of the Property (labels added)

Exhibit F



Exhibit G



Exhibit H

